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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,331	01/30/2004	Albert R. Ancil	18005 USA	6536
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OWENS-ILLINOIS, INC. ONE MICHAEL OWENS WAY, THREE O-I PLAZA PERRYSBURG, OH 43551-2999			EXAMINER WOLLSCHLAGER, JEFFREY MICHAEL	
			ART UNIT	PAPER NUMBER

1732

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/768,331

Applicant(s)

ANCTIL ET AL.

Examiner

Jeff Wollschlager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 2, 6 and 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5 and 8 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment to the claims, drawings, and specification, filed August 14, 2006 has been entered. Claims 1-14 are pending. Claims 1 and 5 are currently amended. Claims 2, 6 and 9-14 remain withdrawn from further consideration as being drawn to a non-elected invention. Claims 1, 3-5, 7 and 8 are under examination. The objection to the drawings and specification has been withdrawn.

### ***Election/Restrictions***

Applicant's continued traversal of the restriction of claims 2 and 6 is noted. However, the restriction requirement was made final in the previous office action and is maintained for the same reasons as previously presented. Should applicant continue to traverse the restriction requirement, it is noted that restrictions deemed to be improper may be petitioned.

### ***Claim Objections***

Claims 4 and 8 are presented as original, but they are not identical to the originally presented claims. It appears the claims contain typographical errors. Claim 4 recites, "...position or at least one". It appears the recitation should be "...position of at least one". Claim 8 states that it depends from claim 3. Claim 8 originally depends from claim 5. Both claims are examined as originally presented. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by von Holdt (U.S. Patent 4,476,083; issued October 9, 1984).

Regarding claims 1 and 4, von Holdt teaches a method for molding an internal pail pivot (col. 1, lines 10-15) wherein a plurality of split mold portions are employed (Figure 1, elements (12), (14), (16), (18), (26), (28), (34); Figure 1A; col. 2, lines 41 – col. 3, lines 29) to form at least one movable core portion and one pocket and wherein the core portion is advanced while the plurality of split mold portions are closed such that the core portion cooperates with the pocket to define a cavity for a radially extending element of the pail (col. 2, lines 52-67; col. 4, lines 1-65; col. 5, lines 21-67).

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by von Holdt (U.S. Patent 4,125,246; issued November 14, 1978).

Regarding claim 1, von Holdt teaches a method for molding an internal pail pivot (Abstract) wherein a plurality of split mold portions are employed (Figure 1, elements (12) (13a), (14), (16), (34), (36), (38), (56), (62), (82)) to form at least one core portion and one pocket and wherein the core portion is advanced while the plurality of split mold portions are closed such that the core portion cooperates with the pocket to define a

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cavity for a radially extending element of the pail (Figure 2; col. 3, lines 60-col. 4, lines 67; col. 5, lines 37-57; col. 6, lines 22-63).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 4, 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyazawa et al. (U.S. Patent 5,232,718; issued August 3, 1993).

Regarding claims 1 and 5, Miyazawa et al. teach a method for making a preform with an undercut (Abstract) wherein a plurality of split molds (Figure 1, elements (40), (40b), (20), (18), (30a), (30b); Figure 3A, 3B, 3C; Figure 9A, element (112)) are closed such that a core portion and a pocket are formed within the closed bodies and

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cooperate to form at least one radially extending element (col. 1, lines 51- col. 2, lines 67; col. 3, lines 31-61; col. 4, lines 45-63). Miyazawa et al. do not expressly state the core mold (18) is still advancing after the plurality of cavity molds is closed since all the mold pieces are moving at the same time and Miyazawa et al. does not discuss which pieces complete their movement first (col. 4, lines 45-62). However, the examiner notes that the core mold is designed to be moved while the cavity molds are closed (col. 3, lines 62-col. 4, lines 14; Figure 3A) and that continuing to advance the core while the cavity molds are closed would have been *prima facie* obvious at the time of the claimed invention.

As to claims 4 and 8, Miyazawa et al. teach the core portion is moveable and that it advances (Figures 3A, 3B, 3C; col. 1, lines 51- col. 2, lines 67; col. 3, lines 31-61; col. 4, lines 45-63).

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ekkert (U.S. Patent 5,368,469; issued November 29, 1994) in view of Virog Jr. et al. (U.S. Patent 4,180,175; issued December 25, 1979).

Regarding claims 1 and 3, Ekkert teaches a method of molding a tamper evident closure wherein a plurality of mold bodies are closed (78), (86), (90), (94), and a finish block/cavity portion (74) is closed to provide a core portion and cavity; wherein the mold bodies and finish block are moved relative to each other to form a closed mold assembly (col. 5, lines 32-col. 6, lines 46) such that the core portion advances in unison with the mold bodies toward the pocket to define at least one cavity for forming a

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radially extending element. Ekkert does not teach the finish block/cavity portion consists of a plurality of pieces (e.g. split). However, Virog Jr. et al. discloses that split molds for both the body and neck portion of molding an article are conventional (col. 1, lines 32-45).

Therefore it would have been *prima facie* obvious to one having ordinary skill at the time of the claimed to employ a conventional split neck mold for the cavity portion (74) in the method of Ekkert to provide additional manufacturing flexibility and to facilitate removal of the closure from Ekkert's mold.

#### ***Allowable Subject Matter***

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-5, 7 and 8 have been considered but are moot in view of the new ground(s) of rejection necessitated by applicant's amendment to the claims.

***Conclusion***

Claims 1, 3-5, and 8 are rejected. Claim 7 is objected to.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Wollschlager whose telephone number is 571-272-8937. The examiner can normally be reached on Monday - Thursday 7:00 - 4:45, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeff Wollschlager  
Examiner  
Art Unit 1732

  
CHRISTINA JOHNSON  
SUPERVISORY PATENT EXAMINER  
10/30/06

October 26, 2006